

78A-10-101. Title.

This chapter is known as the "Judicial Selection Act."

Enacted by Chapter 3, 2008 General Session

78A-10-102. Nomination, appointment, and confirmation of judges.

Judges for courts of record in Utah shall be nominated, appointed, and confirmed as provided in Utah Constitution Article VIII, Section 8, and this chapter.

Renumbered and Amended by Chapter 3, 2008 General Session

78A-10-103. Procedures governing meetings of judicial nominating commissions.

- (1) The Commission on Criminal and Juvenile Justice shall:
 - (a) in consultation with the Judicial Council, enact rules establishing procedures governing the meetings of the judicial nominating commissions in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (b) ensure that those procedures include:
 - (i) a minimum recruitment period of at least 30 days but not more than 90 days, unless fewer than nine applications are received for a judicial vacancy, in which case the recruitment period may be extended up to 30 days;
 - (ii) standards for maintaining the confidentiality of the applications and related documents;
 - (iii) standards governing the release of applicant names before nomination;
 - (iv) standards for destroying the records of the names of applicants, applications, and related documents upon completion of the nominating process;
 - (v) an opportunity for public comment concerning the nominating process, qualifications for judicial office, and individual applicants;
 - (vi) evaluation criteria for the selection of judicial nominees;
 - (vii) procedures for taking summary minutes at nominating commission meetings;
 - (viii) procedures for simultaneously forwarding the names of nominees to the governor, the president of the Senate, and the Office of Legislative Research and General Counsel;
 - (ix) standards governing a nominating commissioner's disqualification and inability to serve; and
 - (x) procedures that require the Administrative Office of the Courts to immediately inform the governor when a judge is removed, resigns, or retires.
- (2) In determining which of the applicants are the most qualified, the nominating commissions shall determine by a majority vote of the commissioners present which of the applicants best possess the ability, temperament, training, and experience that qualifies them for the office.
- (3)
 - (a) The appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy; and
 - (b) trial court nominating commissions shall certify to the governor a list of the five most qualified applicants per vacancy.

(4) Nominating commissions shall ensure that the list of applicants submitted to the governor:

- (a) meet the qualifications required by law to fill the office; and
- (b) are willing to serve.

(5) In determining which of the applicants are the most qualified, nominating commissions may not decline to submit a candidate's name to the governor merely because:

(a) the nominating commission had declined to submit that candidate's name to the governor to fill a previous vacancy;

(b) a previous nominating commission had declined to submit that candidate's name to the governor; or

(c) that nominating commission or a previous nominating commission had submitted the applicant's name to the governor and the governor selected someone else to fill the vacancy.

(6) A judicial nominating commission may not nominate a justice or judge who was not retained by the voters for the office for which the justice or judge was defeated until after the expiration of that term of office.

(7) Judicial nominating commissions are exempt from the requirements of Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 134, 2010 General Session

78A-10-104. Convening of judicial nominating commissions -- Certification to governor of nominees -- Meetings to investigate prospective candidates.

(1) Unless a hiring freeze is implemented in accordance with Section 78A-2-113, the governor shall ensure that:

(a) the recruitment period to fill a judicial vacancy begins 235 days before the effective date of a vacancy, unless sufficient notice is not given, in which case the recruitment period shall begin within 10 days of receiving notice;

(b) the recruitment period is a minimum of 30 days but not more than 90 days, unless fewer than nine applications are received, in which case the recruitment period may be extended up to 30 days; and

(c) the chair of the judicial nominating commission having authority over the vacancy shall convene a meeting not more than 10 days after the close of the recruitment period.

(2) The time limits in Subsection (1) shall begin to run the day the hiring freeze ends.

(3) The nominating commission may:

- (a) meet as necessary to perform its function; and
- (b) investigate prospective candidates.

(4) Not later than 45 days after convening, the:

(a) appellate court nominating commission shall certify to the governor a list of the seven most qualified applicants per vacancy; and

(b) trial court nominating commission shall certify to the governor a list of the five most qualified applicants per vacancy.

(5) The governor shall fill the vacancy within 30 days after receiving the list of

nominees.

(6) If the governor fails to fill the vacancy within 30 days of receiving the list of nominees from the nominating commission, the chief justice of the Supreme Court shall, within 20 days, appoint a person from the list of nominees certified to the governor.

(7) A nominating commission may not nominate a person who has served on a nominating commission within six months of the date that the commission was last convened.

Amended by Chapter 134, 2010 General Session

Amended by Chapter 134, 2010 General Session, (Coordination Clause)

78A-10-105. Senate confirmation of judicial appointments -- Courts of record.

(1) The Senate shall:

(a) consider and decide on each judicial appointment within 60 days of the date of appointment; and

(b) if necessary, convene itself in extraordinary session to consider a judicial appointment.

(2) If the Senate fails to approve the appointment, the office is considered vacant and a new nominating process begins.

(3) An appointment is effective upon approval of a majority of all members of the Senate.

(4) The judicial nominating commission, the governor, the chief justice, and the Senate shall nominate and select judges based solely upon consideration of their fitness for office without regard to any partisan political considerations.

Enacted by Chapter 134, 2010 General Session

78A-10-201. Creation.

(1) There is created an Appellate Court Nominating Commission.

(2) The Appellate Court Nominating Commission shall nominate justices of the Supreme Court and judges of the Court of Appeals.

Enacted by Chapter 3, 2008 General Session

78A-10-202. Membership.

(1) The Appellate Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a single four-year term.

(2) Each commissioner shall:

(a) be a United States citizen;

(b) be a resident of Utah; and

(c) serve until the commissioner's successor is appointed.

(3) The governor may not appoint:

(a) a commissioner to serve successive terms;

(b) a member of the Legislature to serve as a member of the Appellate Court

Nominating Commission; or

(c) more than four commissioners from the same political party to the Appellate Court Nominating Commission.

(4) (a) The Utah State Bar shall submit to the governor a list of six nominees to serve as Appellate Court Nominating Commissioners.

(b) The governor shall appoint two commissioners from the list of nominees provided by the Utah State Bar.

(c) The governor may reject the list submitted by the Utah State Bar and request a new list of nominees.

(5) The governor may not appoint more than four persons who are members of the Utah State Bar to the Appellate Court Nominating Commission.

(6) The chief justice of the Supreme Court shall appoint another member of the Judicial Council to serve as an ex officio, nonvoting member of the Appellate Court Nominating Commission.

(7) The governor shall appoint the chair of the Appellate Court Nominating Commission from among the membership.

Amended by Chapter 134, 2010 General Session

78A-10-203. Procedure.

(1) Four commissioners are a quorum.

(2) The governor shall appoint a member of the governor's staff to serve as staff to the Appellate Court Nominating Commission.

(3) The governor shall:

(a) ensure that the commission follows the rules promulgated by the Commission on Criminal and Juvenile Justice; and

(b) resolve any questions regarding those rules.

(4) A member of the commission who is also a member of the Utah State Bar may recuse himself if there is a conflict of interest that makes the member unable to serve.

Amended by Chapter 134, 2010 General Session

78A-10-204. Vacancies.

(1) The governor shall fill any vacancy in the office of Appellate Court Nominating Commission.

(2) If an appellate court nominating commissioner is disqualified or is otherwise unable to serve, the governor shall appoint a new commissioner of the same political party as the unavailable commissioner.

(3) If a vacancy occurs among commission members who are also members of the Utah State Bar, the governor shall replace that commissioner with a person from a list of nominees submitted by the Utah State Bar as provided in Section 78A-10-202.

(4) The governor shall ensure that each person who is appointed to fill any vacancy on the Appellate Court Nominating Commission, other than a vacancy caused by expiration of term, is a member of the same political party as the commissioner whom the person replaced.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term and may not be reappointed.

Enacted by Chapter 3, 2008 General Session

78A-10-205. Expenses -- Per diem and travel.

A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

- (1) Section 63A-3-106;
- (2) Section 63A-3-107; and
- (3) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Repealed and Re-enacted by Chapter 286, 2010 General Session

78A-10-301. Creation.

(1) There is created a Trial Court Nominating Commission for each geographical division of the trial courts of record.

(2) The Trial Court Nominating Commission shall nominate judges of the district court and the juvenile court within its geographical division.

Enacted by Chapter 3, 2008 General Session

78A-10-302. Membership.

(1) The Trial Court Nominating Commission shall consist of seven commissioners, each appointed by the governor to serve a single four-year term.

(2) Each commissioner shall:

- (a) be a United States citizen;
- (b) be a resident of Utah;
- (c) be a resident of the geographic division to be served by the commission to which the commissioner is appointed; and
- (d) serve until the commissioner's successor is appointed.

(3) The governor may not appoint:

- (a) a commissioner to serve successive terms;
- (b) a member of the Legislature to serve as a member of a Trial Court Nominating Commission; or
- (c) more than four commissioners from the same political party to a Trial Court Nominating Commission.

(4) The governor shall appoint two commissioners from a list of nominees provided by the Utah State Bar.

(5) The Utah State Bar shall submit:

- (a) six nominees from Districts 2, 3, and 4; and
- (b) four nominees from Districts 1, 5, 6, 7, and 8.

(6) The governor may reject any list and request a new list of nominees.

(7) The governor may not appoint more than four persons who are members of the Utah State Bar to a Trial Court Nominating Commission.

(8) The chief justice of the Supreme Court shall appoint another member of the Judicial Council to serve as an ex officio, nonvoting member of each Trial Court Nominating Commission.

(9) The governor shall appoint the chair of each Trial Court Nominating Commission from among its membership.

Amended by Chapter 134, 2010 General Session

78A-10-303. Procedure.

(1) Four commissioners are a quorum.

(2) The governor shall appoint a member of the governor's staff to serve as staff to each Trial Court Nominating Commission.

(3) The governor shall:

(a) ensure that each Trial Court Nominating Commission follows the rules promulgated by the Commission on Criminal and Juvenile Justice; and

(b) resolve any questions regarding those rules.

(4) A member of a Trial Court Nominating Commission who is also a member of the Utah State Bar may recuse himself if there is a conflict of interest that makes the member unable to serve.

Amended by Chapter 134, 2010 General Session

78A-10-304. Vacancies.

(1) The governor shall fill any vacancy on the Trial Court Nominating Commission.

(2) If a commissioner is disqualified or otherwise unable to serve, the governor shall appoint a new commissioner of the same political party as the unavailable commissioner.

(3) If a vacancy occurs among commission members who are also members of the Utah State Bar, the governor shall replace that commissioner with a person from a list of nominees submitted by the Utah State Bar as provided in Section 78A-10-302.

(4) The governor shall ensure that each person who is appointed to fill any vacancy in the office of commissioner, other than a vacancy caused by expiration of term, is a member of the same political party as the commissioner whom the person replaced.

(5) When a vacancy occurs in the membership for any reason, the replacement shall be appointed for the unexpired term of the commissioner being replaced and may not be reappointed.

Enacted by Chapter 3, 2008 General Session

78A-10-305. Expenses -- Per diem and travel.

A member may not receive compensation or benefits for the member's service, but may receive per diem and travel expenses in accordance with:

(1) Section 63A-3-106;

(2) Section 63A-3-107; and

(3) rules made by the Division of Finance pursuant to Sections 63A-3-106 and 63A-3-107.

Repealed and Re-enacted by Chapter 286, 2010 General Session